

ARGUMENTS/REMARKS

Applicants would like to thank the examiner for the careful consideration given the present application, and for the personal interview conducted on January 28, 2004. The application has been carefully reviewed in light of the Office action and the interview, and amended as necessary to more clearly and particularly describe and claim the subject matter which applicants regard as the invention.

Claims 13-19, 21-33 and 36-39 remain in this application. Claims 1-13 and 20 have been previously canceled. Claims 34-35 are currently canceled.

Claims 13-19, 21-26, 28-31, 33-38, 40-42 and 44 were rejected under 35 U.S.C. §102(b) as being anticipated by Ball *et al.* (U.S. 5,800,336). Claims 27, 32, 39, and 43 were rejected under 35 U.S.C. §103(a) as being unpatentable over Ball *et al.* For the following reasons, the rejections are respectfully traversed.

Claims 34-35 has been canceled, making their rejection moot.

At the interview, the limitation of a permanent magnet being separate from a coil was discussed. It was agreed that, after a cursory review of the prior art by the Examiner, that Ball did not suggest such a limitation, (in fact, Ball teaches an integrated coil/magnet) and thus the amendment would overcome the prior art.

Accordingly, claim 13 has been amended to recite "at least one coil separate from said permanent magnet adapted for placing in the area of the middle ear". Consequently, claim 13 is patentable over Hough.

Claims 14-19, 21-27, and 30-32, which depend, either directly or indirectly, on claim 13, are thus patentable for the same reasons (as well as for the limitations contained therein). Claim 28 recites similar limitations to claim 13 at line 10, claim 36 at line 5, and claim 40 at line 6, and thus are patentable over Ball for the same reasons as claim 13. Claims 29 and 33, which depend on claim 28, claims 37-39, which depend on claim 36, and claims 41-44, which depend on claim 40, are patentable over the reference for at least the same reasons as their parent claim(s).

In consideration of the foregoing analysis, it is respectfully submitted that the

Appl. No. 09/932,353  
Amdt. Dated February 23, 2004  
Reply to Office action of October 21, 2003

present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 16-0820, our Order No. 33891.

Respectfully submitted,

PEARNE & GORDON, LLP

By:

  
Robert F. Bodi, Reg. No. 48,540

1801 East 9<sup>th</sup> Street, Suite 1200  
Cleveland, Ohio 44114-3108  
(216) 579-1700

February 23, 2004